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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/601,868	08/09/2000	YOSHIO TSUJINO	H4898PCT/U	5240

7590 01/17/2003  
GLENN E J MURPHY  
HENKEL CORPORATION  
2500 RENAISSANCE BOULEVARD  
SUITE 200  
GULPH MILLS, PA 19406

EXAMINER

ELHILO, EISA B

ART UNIT	PAPER NUMBER
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1751

DATE MAILED: 01/17/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/601,868

Applicant(s)

TSUJINO ET AL.

Examiner

Eisa B Elhilo

Art Unit

1751

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 25 October 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 10-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 10-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

### DETAILED ACTION

- 1 This action is responsive to the RCE filed on October 25, 2002.
- 2 Claims 10-25 are pending in this application.

#### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 10-25 are rejected under 35 U.S.C. 102(b) as being anticipated by Rondeau et al. (WO' 97/39727).

Rondeau (WO' 727) teaches hair dyeing compositions comprising from 0.1 to 100 % of cationic direct dyes relative to the weight of the composition (see page 13, line 4). Rondeau teaches a cationic direct dye of (IV) which is identical to the claimed formula when in the reference formula (IV), Z denotes a nitrogen atoms or a CH radical, A and B denote benzenic or heterocyclic aromatic groups substituted with one or more radical such as  $\text{NR}_{11}\text{R}_{12}$  or  $\text{OR}_{11}$  in which  $\text{R}_{11}$  and  $\text{R}_{12}$  simultaneously or independently of each other represent hydrogen, a  $\text{C}_1\text{-C}_8$  alkyl radical, a  $\text{C}_1\text{-C}_4$  hydroxyalkyl radical or a phenyl radical and X- denote an anion as claimed in claims 10-12 (see page 10, lines 20-29, formula IV and page 11, line 1). The composition also comprises cationic dyes such as 4-aminophenylazo-2-hydroxy-7-trimethyammoniumnaphthalene chloride as claimed in claim 13 (see page 11, formula 10), reducing agent (see page 9, line 27) and oxidative fixing agent (oxidizing agent) (see page 13, line 14). Rondeau also teaches a method for dyeing hair comprising the steps of applying to the hair a dyeing compositions that comprises

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cationic direct dyes, reducing agents and oxidizing agents as claimed in claims 19-21 (see page 16, lines 4-10). Rondeau further, teaches a multi-compartment device for dyeing keratin fibers comprising cationic direct dyes as in composition (B), reducing agents as in composition (A) and oxidizing agents as in composition as claimed in claims 15-17 (C) (see page 24, claim 23).

Rondeau teaches all the limitations of the claims. Hence, Rondau anticipates the claims.

***Response to Applicant's Arguments***

3 Applicant's arguments filed 10/25/2002 have been fully considered but they are not persuasive.

With respect to the rejection based upon Rondeau (WO' 727). Applicant argues that the reference does not teach or disclose an oxidative hair fixing composition for permanently waving hair, or kit or method wherein the hair is first permanently waved and subsequently colored.

The examiner respectfully disagrees with the above arguments because the reference teaches and discloses a composition for permanent-waving the hair as claimed (see page 2, line 29). Further, the reference teaches the same method and the same kit for applying the same claimed composition for waving and coloring hair as mentioned above in the reference's disclosure.

4 This is a continuation of applicant's earlier Application No. 09/601,868. All claims are drawn to the same invention claimed in the earlier application and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the earlier application. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action in this case. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no, however, event will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

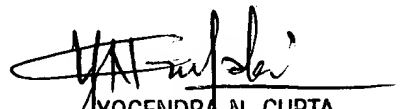
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eisa B Elhilo whose telephone number is (703) 305-0217. The examiner can normally be reached on M - F (7:30-5:00) with alternate Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogendra Gupta can be reached on (703) 308-4708. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9310 for regular communications and (703) 872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

Elhilo

December 31, 2002



YOGENDRA N. GUPTA  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 1700